

January 18, 1996
REPORT TO THE HONORABLE CHAIRPERSON AND
MEMBERS OF THE PLANNING COMMISSION

CONDITIONAL USE PERMIT FOR
UNITED STATES INTERNATIONAL UNIVERSITY

Included as a docket item on the December 14, 1995 regular agenda of the Planning Commission was a request by United States International University ("USIU") for Planning Commission approval to construct a 60,000 square foot intramural sports facility and associated parking within Phase 13 of USIU's existing Conditional Use Permit ("CUP"). Condition 4 of the existing CUP reads as follows: "Prior to issuance of any building permit on any phase of development as shown by number on approved Exhibit "A", a plot plan for the entire phase shall be submitted to the Planning Commission for approval."

At the December 14, 1995 meeting, considerable discussion took place regarding whether the item was properly docketed as an exercise of the Commission's jurisdiction pursuant to Condition 4 of the CUP, or whether the matter should be processed as an amendment to the CUP. The Commission directed the City Attorney to meet with staff and the applicant, to research City files, and to report back to the Commission on this issue.

After researching the files and meeting with the applicant and City staff, our office has concluded that the matter was not properly docketed before the Commission on December 14, 1995 as an exercise of the Commission's jurisdiction pursuant to Condition 4 of the CUP. Our research has revealed that on May 31, 1972 the Planning Commission exercised its discretion pursuant to this provision of the CUP to approve a plot plan for Phase 13. This is verified by the attached minutes from hearings of the Planning Commission which occurred on May 10, 1972 and May 31, 1972.

Consequently, prior to issuance of any building permits for the intramural sports facility, the plans for that facility must be deemed by the Building Official to be in substantial conformance with the approved plot plan. Alternatively, if the project does not substantially conform to the approved plot plan, the applicant should be required to process an amendment to the CUP and the plot plan utilizing the normal procedure for amending such CUPs as set forth in the Municipal Code. Our office has previously opined and staff correctly

pointed out in the Environmental Impact section of its December 8, 1995 report that the applicant has a vested right to proceed with previously approved phases of the CUP for those phases where a plot plan has been approved by the City. Therefore, environmental review should be required, but limited to, any phase or plot plan which the applicant now wishes to change through an amendment to the CUP.

Respectfully submitted,
JOHN W. WITT
City Attorney

RAD:lc:632(043.1)
Attachment
RC-96-2